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Committee on the Peaceful Uses of Outer Space
Legal Subcommittee
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Draft report

VIII. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space

1. Pursuant to General Assembly resolution 72/77, the Subcommittee considered agenda item 10, entitled "Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space", as a single issue/item for discussion.

2. The representatives of Chile, Pakistan and the Russian Federation made statements under agenda item 10. During the general exchange of views, statements relating to the item were also made by representatives of other member States.

3. The Subcommittee recalled that the Safety Framework for Nuclear Power Source Applications in Outer Space (A/AC.105/934), adopted by the Scientific and Technical Subcommittee at its forty-sixth session, in 2009, and endorsed by the Committee at its fifty-second session, also in 2009, had considerably advanced international cooperation in ensuring the safe use of nuclear power sources in outer space and had facilitated the development of international space law.

4. The Subcommittee also recalled the endorsement by the Scientific and Technical Subcommittee of the multi-year workplan of the Working Group on the Use of Nuclear Power Sources in Outer Space of the Scientific and Technical Subcommittee for the period 2017–2021 (A/AC.105/1138, para. 237, and annex II, para. 9).

5. Some delegations expressed the view that more attention should be paid to the legal issues associated with the use of satellite platforms with nuclear power sources in Earth orbits, including the geostationary orbit, in the light of potential accidental re-entry of nuclear power sources into the Earth's atmosphere, reported failures and collisions, which posed a high risk to humanity, the Earth's biosphere and the environment.

6. The view was expressed that the Safety Framework for Nuclear Power Source Applications in Outer Space remained a comprehensive and reliable source of the best available standards for ensuring the safe use of nuclear power sources in outer space, and that any requests for the revision of the Framework should be supported by specific examples demonstrating cases in which the Framework might not be effective.

7. The view was expressed that the use of applications using nuclear power sources should be limited as much as possible and be in conformity with international law, in

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particular the Outer Space Treaty and the Treaty on the Non-Proliferation of Nuclear Weapons, as well as the agreements, conventions, protocols and safeguards of the International Atomic Energy Agency, in order to guarantee the safety, security and sustainability of the outer space environment.

8. The view was expressed that, in the light of the frequent cases of re-entry of space debris into the atmosphere and their subsequent fall, often into the Pacific Ocean, information related to the possible presence of remains of nuclear fuel should be reported to all States that might be affected.

X. General exchange of information on non-legally binding United Nations instruments on outer space

9. Pursuant to General Assembly resolution 72/77, the Subcommittee considered agenda item 12, entitled "General exchange of information on non-legally binding United Nations instruments on outer space", as a single issue/item for discussion.

10. The representatives of Chile, Japan, Pakistan and Poland made statements under agenda item 12. A statement was also made by the representative of Nigeria on behalf of the Group of 77 and China. During the general exchange of views, statements relating to the item were also made by representatives of other member States.

11. Some delegations expressed the view that, with the development of space technology and the diversification of space actors, both private and public, it was important to continue to gain a better understanding of non-legally binding United Nations instruments to address new challenges, including with a view to ensuring the safe and sustainable use of outer space.

12. Some delegations expressed the view that non-legally binding United Nations instruments played a significant role in complementing the existing United Nations treaties on the peaceful uses of outer space.

13. Some delegations recalled the Principles Relating to Remote Sensing of the Earth from Outer Space and, in that regard, underscored the concept of non-discriminatory data availability — allowing access on a non-discriminatory basis — as one of the key principles relating to remote sensing of the Earth. Such availability was vital to sustainable development and promoted transparency and confidence among States.

14. Some delegations recalled the Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries, as an important instrument for the further promotion of international cooperation with a view to maximizing the benefits of the utilization of space applications for all States. In that Declaration, all spacefaring nations were called upon to contribute to promoting and fostering international cooperation on an equitable basis.

15. Some delegations expressed the view that the Space Debris Mitigation Guidelines of the Committee helped to ensure the sustainability of the space environment. Those delegations encouraged countries to undertake differentiated responsibilities with regard to congestion in outer space, with spacefaring nations taking the lead.

16. The view was expressed that non-legally binding instruments were of particular legal value because they comprised norms and standards of positive law; they acquired additional value through use and practice, which could be evidence of an emerging custom and contribute to the progressive development of international law.

17. The view was expressed that the work of the Working Group on the Long-term Sustainability of Outer Space Activities in preparing a compendium of guidelines for the long-term sustainability of outer space activities was of significant importance,

and that the guidelines, once agreed, should be implemented through mutual cooperation by Member States.

18. The view was expressed that it was important for the Subcommittee to consider developments in the International Law Commission (ILC) under the present item. That delegation was of the view that the work of the Legal Subcommittee and ILC could be mutually supportive in many areas of international law, and that the Subcommittee could draw from the ongoing work of ILC on subsequent agreements and practices in relation to the interpretation of treaties on outer space, in particular since one of the objectives of the Subcommittee was to study the nature of legal problems that could arise from the exploration of outer space.

19. The view was expressed that there was a need to work on the development of guidelines and principles to address legal challenges, including those related to space traffic management, space debris and space exploration and exploitation. That delegation expressed the view that an international framework for space traffic management should be set up, including a United Nations-based information sharing mechanism, comprising a database on objects and events in space and procedures for the operation of the mechanism.

20. The Subcommittee noted with appreciation the dedicated web page on non-legally binding United Nations instruments of the Office for Outer Space Affairs. The web page comprised the compendium on mechanisms adopted by States and international organizations in relation to non-legally binding United Nations instruments on outer space and the related updated questionnaire for States and international organizations, together with other documents relevant to the present agenda item.

21. The Subcommittee encouraged States members of the Committee and international intergovernmental organizations having permanent observer status with the Committee to share information on their practices related to non-legally binding United Nations instruments on outer space and submit their responses to the Secretariat for the purpose of updating the compendium.

XIV. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-eighth session

22. Pursuant to General Assembly resolution 72/77, the Subcommittee considered agenda item 16, entitled "Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-eighth session", as a regular item on the agenda. Under the item, the Subcommittee also considered matters related to the organization of work.

23. The representatives of Australia, Belgium, Brazil, China, Czechia, Greece, Luxembourg, Mexico, the Netherlands, the Russian Federation and the United States made statements under agenda item 16. During the general exchange of views, statements relating to the item were also made by representatives of other member States.

24. The Subcommittee agreed that the following items be proposed to the Committee for inclusion in the agenda of the Subcommittee at its fifty-eighth session:

Regular items

1. Adoption of the agenda.
2. Statement by the Chair.
3. General exchange of views.
4. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.

5. Status and application of the five United Nations treaties on outer space.

6. Matters relating to:

(a) The definition and delimitation of outer space;

(b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.

7. National legislation relevant to the peaceful exploration and use of outer space.

8. Capacity-building in space law.

Single issues/items for discussion

9. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.

10. General exchange of information and views on legal mechanisms relating to space debris mitigation and remediation measures, taking into account the work of the Scientific and Technical Subcommittee.

11. General exchange of information on non-legally binding United Nations instruments on outer space.

12. General exchange of views on the legal aspects of space traffic management.

13. General exchange of views on the application of international law to small-satellite activities.

14. General exchange of views on potential legal models for activities in the exploration, exploitation and utilization of space resources.

New items

15. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-ninth session.

25. Some delegations expressed the view that consideration of the item on the general exchange of views on potential legal models for activities in the exploration, exploitation and utilization of space resources should be included on the agenda of the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, in order to stimulate a focused debate.

26. Some delegations expressed the view that the aim of providing for such considerations in the Working Group was not clear and that the exchange of views on the item had already been provided for in the plenary.

27. The Subcommittee noted that interested delegations would be holding consultations during the intersessional period, with a view to presenting to the Subcommittee, at its fifty-eighth session, a proposal for its consideration containing objectives and modalities for the inclusion of that item on the agenda of the Working Group.

28. The Subcommittee agreed that IISL and ECSL should again be invited to organize a symposium, to be held during the fifty-eighth session of the Subcommittee, taking into account the need for equitable geographical and gender representation at the symposium in order to reflect a broad range of opinions, in cooperation with other interested academic entities for that purpose.

29. The Subcommittee noted that its fifty-eighth session had been tentatively scheduled to be held from 1 to 12 April 2019.